

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

DECISION & ORDER

-vs-

22-CR-6058

MARK PHILLIPS,

Defendant.

Siragusa, J. This case was referred by text order of the undersigned, docketed May 2, 2022, ECF No. 31, to Magistrate Judge Marian W. Payson, pursuant to 28 U.S.C. § 636(b)(1)(A)-(B). On August 2, 2022, Defendant filed an motion, ECF No. 37, seeking to dismiss the subject indictment in its entirety, since it “fails to state a cognizable crime.” On August 22, 2022, the government filed its response in opposition, ECF No. 42. On September 9, 2022, Defendant filed a reply memorandum in support of his motion to dismiss the indictment, ECF No. 46, and then on October 17, 2022, Defendant filed a supplemental memorandum. ECF No. 54, in further support of his application. On November 17, 2022, Magistrate Judge Payson filed a Report and Recommendation (“R&R”), ECF No. 56, recommending that the Court deny Defendant’s motion to dismiss the indictment. At a court appearance on January 25, 2023, ECF No. 62, Camille Abate, Esq. was relieved as counsel for Defendant, and Steven Slawinski, Assistant Federal Public Defender, was appointed. Following Mr. Slawinski’s appointment, Magistrate Judge Payson granted Defendant two interests

of justice exclusions from the speedy trial clock, both for the purpose of reviewing discovery. The first exclusion was from January 25, 2023, through March 22, 2023, ECF No. 62, and the second exclusion was from March 22, 2023 through April 27, 2023, ECF No. 64. The time has passed for Defendant to file any objections to the R&R, and none have been filed. Moreover, by email dated March 27, 2023, Mr. Slawinski notified the Court that he did not intend to object to the R&R, ECF No. 56

Accordingly, for the reasons set forth in Magistrate Judge Payson's R&R, ECF No. 56, Defendant's application to dismiss the indictment, ECF No.37, is denied.

IT IS SO ORDERED.

Dated: Rochester, New York
April 4, 2023

ENTER:

/s/ Charles J. Siragusa
CHARLES J. SIRAGUSA
United States District Judge